

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 739**

**Introduced by Assembly Member Nation**

February 17, 2005

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An act to ~~amend Section 85310 of~~ *add Section 85310.5 to* the Government Code, relating to political communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 739, as amended, Nation. Political expenditure disclosure.

Existing provisions of the Political Reform Act of 1974, as amended by Proposition 34 of the November 7, 2000, statewide general election, require a person who pays or promises to pay \$50,000 or more for an issue advocacy communication, which clearly identifies a candidate for elective state office but does not expressly advocate the election or defeat of the candidate, made within 45 days of an election, to file a specified disclosure report online or electronically with the Secretary of State within 48 hours of making or promising the payment.

This bill would *additionally* require this filing by a person who pays or promises to pay \$10,000 or more *for an issue advocacy communication that clearly identifies a candidate for elective local office* under the same circumstances.

Existing provisions of the act also provide that if any person has received a payment or a promise of a payment from other persons totaling \$5,000 or more for the purpose of making a communication described above *concerning a candidate for elective state office*, except as payment for goods or services as specified, the person receiving the payments shall disclose on the report the name, address,

occupation and employer, and date and amount received from the person.

This bill would *also* require that additional disclosure if ~~the~~ a payment or promise of a payment *for the purpose of making a communication concerning a candidate for elective local office* totals \$1,000 or more.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

By expanding the number and scope of the disclosures required to be made pursuant to its provisions, this bill would expand the application of criminal penalties for violating the act, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 85310 of the Government Code is~~  
2     ~~amended to read:~~  
3     ~~85310. (a) Any person who makes a payment or a promise of~~  
4     ~~payment totaling ten thousand dollars (\$10,000) or more for a~~  
5     ~~communication that clearly identifies a candidate for elective~~  
6     ~~state office, but does not expressly advocate the election or defeat~~  
7     ~~of the candidate, and that is disseminated, broadcast, or otherwise~~  
8     ~~published within 45 days of an election, shall file online or~~  
9     ~~electronically with the Secretary of State a report disclosing the~~  
10    ~~name of the person, address, occupation, and employer, and~~

1 amount of the payment. The report shall be filed within 48 hours  
2 of making the payment or the promise to make the payment.

3 ~~(b) (1) Except as provided in paragraph (2), if any person has~~  
4 ~~received a payment or a promise of a payment from other persons~~  
5 ~~totaling one thousand dollars (\$1,000) or more for the purpose of~~  
6 ~~making a communication described in subdivision (a), the person~~  
7 ~~receiving the payments shall disclose on the report the name,~~  
8 ~~address, occupation and employer, and date and amount received~~  
9 ~~from the person.~~

10 ~~(2) A person who receives or is promised a payment that is~~  
11 ~~otherwise reportable under paragraph (1) is not required to report~~  
12 ~~the payment if the person is in the business of providing goods or~~  
13 ~~services and receives or is promised the payment for the purpose~~  
14 ~~of providing those goods or services.~~

15 ~~(c) Any payment received by a person who makes a~~  
16 ~~communication described in subdivision (a) is subject to the~~  
17 ~~limits specified in subdivision (b) of Section 85303 if the~~  
18 ~~communication is made at the behest of the clearly identified~~  
19 ~~candidate.~~

20 *SECTION 1. Section 85310.5 is added to the Government*  
21 *Code, to read:*

22 *85310.5. (a) Any person who makes a payment or a promise*  
23 *of payment totaling ten thousand dollars (\$10,000) or more for a*  
24 *communication that clearly identifies a candidate for elective*  
25 *local office, but does not expressly advocate the election or*  
26 *defeat of the candidate, and that is disseminated, broadcast, or*  
27 *otherwise published within 45 days of an election, shall file*  
28 *online or electronically with the Secretary of State a report*  
29 *disclosing the name, address, occupation, and employer of the*  
30 *person, and the amount of the payment. The report shall be filed*  
31 *within 48 hours of making the payment or the promise to make*  
32 *the payment.*

33 *(b) (1) Except as provided in paragraph (2), if any person has*  
34 *received a payment or a promise of a payment from another*  
35 *person or other persons totaling one thousand dollars (\$1,000)*  
36 *or more for the purpose of making a communication described in*  
37 *subdivision (a), the person receiving the payments shall disclose*  
38 *on the report the name, address, occupation, and employer of the*  
39 *other person or persons, and the date and amount of the payment*  
40 *or promise of payment from the person or persons.*

1     (2) *A person who receives or is promised a payment that is*  
2     *otherwise reportable under paragraph (1) is not required to*  
3     *report the payment if the person is in the business of providing*  
4     *goods or services and receives or is promised the payment for the*  
5     *purpose of providing those goods or services.*

6     SEC. 2. No reimbursement is required by this act pursuant to  
7     Section 6 of Article XIII B of the California Constitution because  
8     the only costs that may be incurred by a local agency or school  
9     district will be incurred because this act creates a new crime or  
10    infraction, eliminates a crime or infraction, or changes the  
11    penalty for a crime or infraction, within the meaning of Section  
12    17556 of the Government Code, or changes the definition of a  
13    crime within the meaning of Section 6 of Article XIII B of the  
14    California Constitution.

15    SEC. 3. The Legislature finds and declares that the provisions  
16    of this act further the purposes of both the Political Reform Act  
17    of 1974 within the meaning of subdivision (a) of Section 81012  
18    of the Government Code.